

Appl. No. 10/736,051
Amdt. Dated August 10, 2006
Reply to Office action of April 24, 2006

Amendments to the Drawings

The attached sheet of drawings includes an addition to Fig. 3 of numeral 30 and lead line.

Attachment: 1 Replacement Sheet

REMARKS/ARGUMENTS

In the specification, the paragraphs 015 and 021 have been amended to correct minor errors.

A Replacement Sheet of the drawing has been submitted in response to the requirement set forth in the Office action. Numeral 30 and lead line were added to Fig. 3.

Claims 1-8 remain in this application. Claim 6 has been amended.

Claim 6 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, the examiner noting that it was unclear what "the first axial length portion" in line 6 of the claim refers to. The claim has been amended to make clear that the portion in question refers to the nose projecting from the basal portion. Thus it is believed that this rejection has been obviated. Claim 6 was also modified to define the retention step more clearly.

Claims 1-3 and 5 stand rejected under 35 U.S.C. 102(b) as being anticipated by Sapkos (5,816,809), the examiner stating that the reference discloses an implant member comprising an elongated generally cylindrical post having longitudinal axis 226, a coronal end and an apical end, the coronal end having an abutment portion having a

smoothly curved basal portion 202 integrally formed at the coronal end of the post, cortical bone threads 206 formed along a first axial length portion of the post proximate to the abutment portion and an unthreaded second axial length portion 208 contiguous to the first axial length portion, a third smooth non-threaded axial length portion 210 between the basal portion and threaded first axial length portion formed with a taper of increasing diameter from the apical end toward the coronal end (figure 2) and that the first and second axial length portions are generally equal in length. It is submitted that this rejection should be withdrawing for the following reasons.

It is respectfully submitted that the above rejection be withdrawn for the following reasons. The implant system of Sapkos relates to a "hollow implant 100" which has already been embedded in a patient's bone and a support device, or post, for receipt in implant 100, as described, for example, in the first two paragraphs of the detailed description of the preferred embodiments in column 3 of the patent. The post has a distal root portion 200 formed with screw thread 206 for threaded engagement with internal threads 102 of the implant. Sapkos is particularly concerned with avoiding cross-threading of a post member and internal threads of an implant receiving the post member which can lead to stripping of the threads or rotation of the implant with trauma to the patient being cased by such rotation (see the discussion in the background of the invention in column 1 of Sapkos). There is no showing or suggestion of the post being used to directly engage bone material so that threads formed on the post are of the type

for threading engagement with internal threads 102 of the implant and are not the specialized cortical bone threads as called for in claim 1. The post of Sapkos would not be usable for direct engagement with a bone due to the thread design and further, there is absolutely no suggestion in the Sopkas patent of fixing the post to anything other than an implant already in a bone. It is therefore believed that claim 1 and dependent claims 2, 3 and 5 are allowable over Sopkas and withdrawal of the rejection is respectfully requested.

With regard to the smooth surface 208 of Sopkas, this surface apparently serves no function other than as a lead-in so that when inserted in the bore of the implant receiving device the post is substantially axially aligned to avoid cross-threading when the post is tightened. While smooth portion 10c of the present invention also facilitates insertion in a pilot hole formed in a bone it also serves a number of functions after the implant is driven into the bone including promoting immediate bone deposition or growth between the smooth portion 10c and the bone defining the surface of the pilot hole without undergoing osteoclastic activity thereby facilitating osseointegration of the implant with the bone (see paragraph 017). This, of course, would not apply to the Sapkos post which is not intended for direct engagement with bone material.

Claims 4 and 6-8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sapkos alone (claim 8) or in view of Morgan et al. (claim 4), Halldin et al. (claim 6) or Bulard et al. (claim 7). Since these claims are all ultimately dependent on claim 1, they should be allowable therewith along with claim 1 for the reasons stated above.

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In view of the above remarks, Applicant respectfully requests that a timely Notice of Allowability be issued in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John A. Haug', written in a cursive style.

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Attachment